

Message Text

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ORIGIN EB-07

INFO OCT-01 ISO-00 MMO-04 SIG-02 AF-10 ARA-14 EA-09
EUR-12 NEA-10 IO-14 FEA-01 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 FRB-01 H-02 INR-07 INT-05 L-03
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DRAFTED BY EB/OT/STA:MCJONES:JH
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TREAS:RSELF
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STR:SCOFFIELD
COMM:JDAVIS
ITC:JBOYD
TREAS:LBARDEN

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FM SECSTATE WASHDC
TO ALL DIPLOMATIC POSTS
XMT AMEMBASSY ALGIERS
AMEMBASSY BEIRUT

UNCLAS STATE 154016

E.O. 11652: N/A

TAGS: ETRD

SUBJECT: US ACTIONS UNDER TRADE ACT OF 1974

REF: A) STATE 298594 12/8/76 B) STATE 35949 2/13/76

THIS CABLE PROVIDES INFORMATION ON THE ADMINISTRATION OF
THE TRADE ACT OF 1974 DURING THE FIRST HALF OF 1977 AS IT
PERTAINS TO ANTIDUMPING, COUNTERVAILING DUTY, ESCAPE
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CLAUSE AND SECTION 301 INVESTIGATION. EACH SECTION BELOW
ALSO PROVIDES A SUMMARY OF THE OUTCOME OF INVESTIGATIONS
DURING 1975-6.

1. ANTIDUMPING INVESTIGATIONS

A) DUMPING DUTIES ARE NOT IMPOSED UNLESS THE TREASURY FINDS
SALES AT LESS THAN FAIR VALUE (SLFV) AND THE U.S. INTER-
NATIONAL TRADE COMMISSION (ITC) SUBSEQUENTLY FINDS INJURY
TO A U.S. INDUSTRY. 36 DUMPING INVESTIGATIONS WERE

COMPLETED IN THE PERIOD 1975-6 WITH DUMPING DUTIES BEING IMPOSED IN 6 CASES. IN THE OTHER 30 INVESTIGATIONS, TREASURY MADE 6 DETERMINATIONS OF NO SALES AT LESS THAN FAIR VALUE (NO SLFV) AND DISCONTINUED 10 OTHERS ON THE BASIS OF PRICE ASSURANCES WHILE THE ITC MADE 14 FINDINGS

OF NO INJURY.

B) FOLLOWING ARE TWO LISTS OF ANTIDUMPING CASES. THE FIRST CONSISTS OF CASES COMPLETED TO DATE IN 1977. "NO SLFV" MEANS TREASURY DID NOT FIND SALES AT LESS THAN FAIR VALUE WHILE "NO INJURY" REFERS TO AN ITC FINDING AFTER TREASURY HAS FOUND SLFV. SO FAR THIS YEAR THE ITC HAS MADE NO INJURY DETERMINATIONS SO THAT NO NEW DUMPING DUTIES HAVE YET BEEN IMPOSED. THE SECOND LIST CONSISTS OF ANTIDUMPING INVESTIGATIONS IN PROGRESS AS OF JUNE 29, 1977.

- 29,

ANTIDUMPING INVESTIGATIONS COMPLETED, JANUARY 1- JUNE 29; 1977

-

1. DIGITAL COMPUTER SCALES JAPAN NO SLFV

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2. MONOSODIUM GLUTAMATE KOREA NO SLFV

3. ROUND HEAD STEEL DRUM JAPAN NO INJURY
PLUGS

4. CLEAR SHEET GLASS ROMANIA NO INJURY

ANTIDUMPING PROCEEDINGS IN PROGRESS JUNE 29, 1977

BEFORE INTERNATIONAL TRADE COMMISSION

1. ABOVE-GROUND METAL-WALLED JAPAN DUE 6/29/77
SWIMMING POOLS - -

2. PARTS FOR SELF-PROPELLED CANADA DUE 7/7/77
BITUMINOUS PAVING
EQUIPMENT

3. PRESSURE SENSITIVE PLASTIC ITALY DUE 8/31/77
TAPE - -

4. PRESSURE SENSITIVE PLASTIC GERMANY DUE 10/14/77
TAPE

BEFORE TREASURY FOR FINAL DETERMINATION

5. RAILWAY TRACK MAINTENANCE AUSTRIA DUE 8/10/77
EQUIPMENT

6. SACCHARIN JAPAN DUE 9/7/77

7. SACCHARIN KOREA DUE 9/8/77

BEFORE TREASURY FOR TENTATIVE DETERMINATION

8. ANIMAL GLUE & INEDIBLE NETHERLANDS DUE 7/26/77
GELATIN
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9. ANIMAL GLUE & INEDIBLE SWEDEN DUE 7/26/77
GELATIN

10. ANIMAL GLUE & INEDIBLE YUGOSLAVIA DUE 7/26/77
GELATIN

11. ANIMAL GLUE & INEDIBLE GERMANY DUE 7/26/77
GELATIN

12. IMPRESSION FABRIC JAPAN DUE 9/15/77

13. ICE HOCKEY STICKS FINLAND DUE 9/16/77

14. STEEL PIPE AND TUBE JAPAN DUE 9/30/77

15. CARBON PLATE STEEL JAPAN DUE 9/30/77

16. POLYVINYL CHLORIDE (PVC) ROC OUE 9/31/77

17. VISCOSE RAYON STAPLE AUSTRIA DUE 10/12/77
FIBER

2. COUNTERVAILING DUTY INVESTIGATIONS

A) IN THE TWO YEAR PERIOD 1975-6, TREASURY COMPLETED 30 COUNTERVAILING DUTY INVESTIGATIONS (THIS DOES NOT INCLUDE THE 14 CASES IN 75 WHICH PETITIONERS WITH-DREW THEIR COMPLAINTS) WITH THE RESULT THAT COUNTERVAILING DUTIES WERE BEING IMPOSED ON 8 NEW PRODUCTS AT THE END OF 1976 AFTER DETERMINATIONS THAT FOREIGN GOVERNMENTS WERE PROVIDING BOUNTIES OR GRANTS. ONE OF THE COUNTERVAILING DUTY ORDERS -- THAT ON FOOTWEAR FROM THE REPUBLIC UNCLASSIFIED

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OF CHINA -- HAS SUBSEQUENTLY BEEN REVOKED RETROACTIVE TO JANUARY 7, 1976. IN THE TWO YEAR PERIOD, TREASURY TERMINATED ONE CASE, MADE 11 NEGATIVE FINDINGS AND WAIVED COUNTERVAILING DUTIES IN 10 CASES UNDER THE TEMPORARY WAIVER PROVISIONS OF THE TRADE ACT OF 1974.

B) THE MOST SIGNIFICANT DEVELOPMENT IN THE FIELD OF COUNTERVAILING DUTIES IS THE NUMBER OF NEGATIVE DETERMINATIONS BY THE TREASURY THAT ARE BEING CONTESTED IN THE

COURTS BY U.S. INDUSTRIES. UNTIL THE TRADE ACT OF 1974, THERE WAS NO AUTHORITY FOR THE COURTS TO REVIEW NEGATIVE DETERMINATIONS ALTHOUGH THEY HAD THE POWER TO REVIEW AFFIRMATIVE DETERMINATIONS. THE MOST NOTEWORTHY CASES IN LITIGATION ARE THOSE BROUGHT BY ZENITH AGAINST THE REBATE OF THE JAPANESE COMMODITY TAX ON EXPORTS OF CONSUMER ELECTRONIC PRODUCTS AND BY U.S. STEEL AGAINST THE REBATE OF THE VALUE ADDED TAX ON EXPORTS OF STEEL FROM THE EUROPEAN COMMUNITIES. THE TREASURY DEPARTMENT HAS NOT COUNTERVAILED THE REBATE OF AN INDIRECT TAX ON AN EXPORTED PRODUCT SINCE ENACTMENT OF THE COUNTERVAILING DUTY LAW IN 1897 AND THE U.S. HAS AGREED TO GATT RULES WHICH PERMIT SUCH REBATES. HOWEVER, THE PLAINTIFFS IN BOTH CASES CONTEND THAT THESE REBATES OF INDIRECT TAXES SHOULD BE SUBJECT TO COUNTERVAILING DUTIES UNDER U.S. LAW, ESPECIALLY IN LIGHT OF TWO SUPREME COURT DECISIONS, DOWNS (1903) AND NICHOLAS (1919). ON APRIL 12, THE U.S. CUSTOMS COURT FOUND IN THE ZENITH CASE THAT TREASURY SHOULD HAVE COUNTERVAILED. THIS DECISION HAS BEEN APPEALED ON AN EXPEDITED BASIS TO THE COURT OF CUSTOMS AND PATENT APPEALS. THE U.S. STEEL CASE IS STILL BEFORE THE CUSTOMS COURT.

AT THE REQUEST OF THE JAPANESE GOVERNMENT, A GATT WORKING PARTY MET JUNE 2-3 TO CONSIDER THE CUSTOMS COURT DECISION IN ZENITH. THE U.S. WAS A MEMBER OF THE WORKING PARTY
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BUT TOOK NO POSITION ON THE ISSUES CONSIDERED BECAUSE OF THE ONGOING JUDICIAL CONSIDERATION OF THAT DECISION. THE OTHER MEMBERS FOUND THAT THE IMPOSITION OF COUNTERVAILING DUTIES AGAINST THE REBATE OF THE JAPANESE COMMODITY TAX WOULD "CONSTITUTE A PRIMA FACIE CASE OF NULLIFICATION AND IMPAIRMENT." THE GATT COUNCIL ADOPTED THE WORKING PARTY REPORT ON JUNE 16 AND EMPHASIZED THE SERIOUS IMPLICATIONS OF THE ZENITH DECISION FOR WORLD TRADE.

C) COUNTERVAILING DUTY INVESTIGATION COMPLETED AS OF JUNE 30, 1977

NEGATIVE

1. BICYCLES ROC

AFFIRMATIVE PLUS WAIVER

2. CERTAIN FISH CANADA

AFFIRMATIVE CVD IMPOSED

3. SCISSORS & SHEARS BRAZIL 15.6 PERCENT

4. COTTON YARN BRAZIL 19.8 PERCENT

5. ZINC SPAIN EST. 4 PER-
CENT

6. NUTS, BOLTS & SCREWS JAPAN .2 PERCENT ON
BOLTS, NUTS
(A

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7. HANDBAGS KOREA .5 PERCENT

5 PERCENT

8. HANDBAGS ROC .5 PERCENT

PERCENT

FOR 2 FIRMS;
8 PERCENT

(A BECAUSE THE EFFECTIVE DUTY RATE WAS .25 PERCENTTHIS
WAS NOT CONSIDERED DE MINIMIS

D) COUNTERVAILING DUTY INVESTIGATIONS IN PROGRESS JUNF
30, 1977

1. TOMATO PRODUCTS ITALY DUF 7/P/77

2. CHAIN & PARTS THEREOF ITALY DUE 10/1/77

3. SILICON STEEL ITALY DUE 10/1/77

4. LEATHER WEARING APPAREL KOREA DUE 10/18/77

5. CORDAGE KOREA DUE 10/28/77

6. BUTTER COOKIES DENMARK DUE 1P/P8/77

7. CHAINS & PARTS THEREOF SPAIN DUE 1/10/78

8. LEATHER WEARING APPAREL ROC DUE 1/23/78

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9. LEATHER WEARING APPAREL ARGENTINA DUE 1/23/78

10. LEATHER WEARING APPAREL URUGUAY DUE 1/23/78

11. FOOTWEAR ARGENTINA DUE 2/11/78

12. HANDBAGS URUGUAY DUE 4/22/78

13. HANDBAGS COLUMBIA DUE 4/22/78

3. SECTION 201 (ESCAPE CLAUSE)

A) 15 ESCAPE CLAUSE PROCEEDINGS WERE COMPLETED IN 1975-6 WITH IMPORT RESTRICTIONS BEING IMPOSED IN ONLY ONE CASE. (ESCAPE CLAUSE LEGISLATION IS INTENDED TO PROVIDE RELIEF OF LIMITED DURATION FOR U.S. INDUSTRIES SERIOUSLY INJURED BY THE INCREASED IMPORTATION OF COMPETITIVE PRODUCTS). IN THE SPECIALTY STEEL CASE, AN ORDERLY MARKETING AGREEMENT (OMA) WAS CONCLUDED WITH JAPAN AND QUOTAS WERE ESTABLISHED FOR OTHER SUPPLIERS. IN THIS PERIOD, THE INTERNATIONAL TRADE COMMISSION (ITC) MADE 6 FINDINGS OF NO INJURY, 7 FINDINGS OF INJURY AND SPLIT 3-3 TWICE. (WHEN THE ITC SPLITS 3-3, THE PRESIDENT MAY CONSIDER ITS FINDING EITHER INJURY OR NO INJURY) IN THE 9 CASES CONSIDERED BY THE PRESIDENT, AN OMA WAS NEGOTIATED IN ONE AND ADJUSTMENT ASSISTANCE WAS RECOMMENDED IN 5. THESE FIGURES INCLUDE A NO INJURY DETERMINATION BY THE ITC IN DECEMBER 1976 IN THE PLANT HANGER CASE.

B) FIVE ESCAPE CLAUSE PROCEEDINGS HAVE BEEN COMPLETED TO DATE IN 1977 WITH THE ITC FINDING INJURY IN 4 AND NO INJURY IN ONE (CAST IRON COOKING WARE). NO IMPORT RELIEF WAS GRANTED IN THE SUGAR AND MUSHROOM CASES ALTHOUGH UNCLASSIFIED

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IN THE FORMER THE PRESIDENT RECOMMENDED LIMITED PRICE SUPPORT ASSISTANCE TO THE DOMESTIC INDUSTRY AND IN THE LATTER INFORMAL UNDERSTANDINGS WERE REACHED WITH THE ROC AND KOREA PROVIDING FOR CONSULTATIONS IF IMPORTS INCREASE AT A DISRUPTIVE RATE. IN THE FOOTWEAR CASE, ORDERLY MARKETING AGREEMENTS (OMAS) WERE NEGOTIATED WITH THE ROC AND KOREA IN LIEU OF THE GLOBAL TARIFF RATE QUOTA RECOMMENDED BY THE ITC. IF INCREASED IMPORTS FROM OTHER SHOE EXPORTERS DISRUPT TRADE OR DISADVANTAGE THE ROC AND KOREA DURING THE DURATION OF THESE OMAS, FURTHER ACTION MAY BE NECESSARY. FINALLY AN OMA WAS CONCLUDED WITH JAPAN ON COLOR TELEVISIONS.

SECTION 201 CASES COMPLETED SINCE JANUARY 1, 1977

PRODUCT (PRINCIPAL SUPPLIERS)	ITC FINDING;	PRESIDENT'S RECOMMENDATION	ACTION
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1. SUGAR (PHILIPPINES, INJURY; QUOTAS NO RESTRIC-
DOMINICAN REPUBLIC) TIONS
2. FOOTWEAR (ITALY, SPAIN, INJURY; TARIFF OMAS WITH ROC,
BRAZIL, ROC, KOREA RATE QUOTA KOREA
3. MUSHROOMS (ROC, INJURY; TARIFF NO RESTRIC-
KOREA) RATE QUOTA TIONS
4. TELEVISIONS (JAPAN INJURY; TARIFF OMA WITH JAPAN
ROC) RATE INCREASE
5. CAST IRON COOKING NO INJURY
WARE (ROC, HONG KONG,
KOREA)

SECTION 201 CASES IN PROGRESS JUNE 30, 1977

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PRODUCT (PRINCIPAL ITC FINDING
SUPPLIERS)

6. FERROCHROMIUM DUE 7/10/77
(SOUTH AFRICA, TURKEY)
7. CUT FLOWERS (COLUMBIA DUE 7/31/77
CANADA, GUATEMALA)
8. HEADWEAR (HONG KONG, DUE 8/18/77
ROC, JAPAN)
9. CATTLE & BEEF PRODUCTS DUE 9/17/77
(AUSTRALIA-NEW ZEALAND,
CANADA, COSTA RICA)
10. STOVES & PARTS DUE 9/9/77
(ROC, KOREA)
11. CAST IRON PIPE & DUE 9/29/77
TUBE (JAPAN, UK, ROC)
12. NUTS, BOLTS & SCREWS DUE 12/12/77
(JAPAN)

4. SECTION 301 (UNFAIR FOREIGN TRADE PRACTICES AFFECTING
US TRADE)

A) NO RESTRICTIONS HAVE BEEN IMPOSED UNDER SECTION 301
SINCE THE PASSAGE OF THE TRADE ACT OF 1974, BUT TWO 301
CASES HAVE BEEN TERMINATED.

B) SECTION 301 CASES IN PROGRESS JUNE 30, 1977
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1. BARLEY MALT -- EXPORT SUBSIDIES ON THIRD MARKET SALES
(EC) INFORMAL DISCUSSIONS IN PROGRESS BUT HAVE NOT YET
BEGUN CONSULTATIONS UNDER GATT ARTICLE XXII (1)
2. EGG ALBUMEN -- VARIABLE LEVY (EC)
INFORMAL DISCUSSIONS WITH EC CONTINUING
3. PROCESSED FRUITS AND VEGETABLES -- MINIMUM IMPORT
PRICES (MIPS)/LICENSES/SURETY DEPOSITS (EC)
AWAITING APPOINTMENT OF 2 NEW PANEL MEMBERS TO COMPLETE
WORK OF PANEL UNDER GATT ARTICLE XXIII (2)
4. WHEAT FLOUR -- EXPORT SUBSIDY ON THIRD MARKET
SALES (EC) GATT PANEL UNDER ARTICLE XXII (2) MET IN
MARCH AND ANOTHER MEETING IS EXPECTED SOON
5. NON-FAT DRIED MILK (NFDM) -- MIXING REGULATIONS (EC)
AWAITING DECISION OF GATT PANEL UNDER ARTICLE XXIII (2)
6. CONSUMER ELECTRONIC PRODUCTS -- COMPLAINT ABOUT
"CONFISCATORY" DUTIES ON IMPORTS FROM U.S. (ROC)
CONSULTATIONS IN PROGRESS WITH ROC ;
7. CANNED FRUITS -- LEVY ON SUGAR ADDITIVES (EC)
INFORMAL CONSULTATIONS WITH EC IN PROGRESS
8. STEEL -- COMPLAINT THAT BILATERAL AGREEMENT BETWEEN
ECSC (EC) AND MITI (JAPAN) ALLEGEDLY DIVERTED SIGNIFI-
CANT QUANTITIES OF JAPANESE STEEL EXPORTS TO THE U.S.
HEARING HELD; INTERAGENCY REVIEW IN PROGRESS
9. CITRUS AND CITRUS PRODUCTS -- COMPLAINT THAT PRE-
FERENTIAL DUTIES TO MEDITERRANEAN COUNTRIES ADVERSELY
AFFECT DUTY BINDINGS TO U.S. (EC)

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HEARING HELD; INTERAGENCY REVIEW IN PROGRESS

10. THROWN SILK -- RESTRICTIONS AGAINST IMPORTS FROM
U.S. (JAPAN) CONSULTATIONS IN PROGRESS WITH JAPAN

CHRISTOPHER

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APPROVED BY:EB/OT/STA:JSSPIRO

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FM SECSTATE WASHDC

TO AMEMBASSY ALGIERS

UNCLAS STATE 154016

FOLLOWING REPEAT STATE 154016 ACTION DIPLOMATIC POSTS
XMT ALGIERS, BEIRUT:

QTE: UNCLAS STATE
154016

E.O. 11652: N/A

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CLAUSE AND SECTION 301 INVESTIGATION. EACH SECTION BELOW
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ANTIDUMPING PROCEEDINGS IN PROGRESS JUNE 29, 1977

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THE WORKING PARTY REPORT ON JUNE 16 AND EMPHASIZED THE SERIOUS IMPLICATIONS OF THE ZENITH DECISION FOR WORLD TRADE.

C) COUNTERVAILING DUTY INVESTIGATION COMPLETED AS OF JUNE 30, 1977

NEGATIVE

1. BICYCLES ROC

AFFIRMATIVE PLUS WAIVER

2. CERTAIN FISH CANADA

AFFIRMATIVE CVD IMPOSED

3. SCISSORS & SHEARS BRAZIL 15.6 PERCENT

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5. ZINC SPAIN EST. 4 PER-

CENT

6. NUTS, BOLTS & SCREWS JAPAN .2 PERCENT ON
BOLTS, NUTS
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7. HANDBAGS KOREA .5 PERCENT

5 PERCENT

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Message Attributes

Automatic Decaptioning: X
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Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
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Enclosure: n/a
Executive Order: N/A
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Handling Restrictions: n/a
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Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1725177
Secure: OPEN
Status: NATIVE
Subject: US ACTIONS UNDER TRADE ACT OF 1974
TAGS: ETRD, US, XX
To: ALL DIPLOMATIC POSTS XMT ALGIERS MULTIPLE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/12038762-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
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